



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NATURE'S PATH FOODS INC. X

Opposer

-against-

THE QUAKER OATS COMPANY

Applicant X

OPPOSITION NO.:

BOX TTAB FEE

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

02-25-2003

U.S. Patent & TMO/TM Mail Rcpt #39

NOTICE OF OPPOSITION

NATURE'S PATH FOODS INC. (Opposer), a corporation organized and existing under the laws of Canada, located at 7453 Progress Way, Delta, British Columbia V4G 1E8, CANADA, believes that it is or will be damaged by registration of the mark NATURE'S BATCH shown in application Serial No. 78/124,742 filed April 29, 2002 by The Quaker Oats Company (Applicant) and hereby opposes same.

03/10/2003 SWILSON1 00000063 78124742

01 FC:6402

300.00 DP

As grounds of the Opposition, Opposer alleges that:

1. Opposer, since at least as early as March 1984, has been, and is now, using the mark NATURE'S PATH in connection with food products-namely bread, breakfast,

cereals, muesli and tahini, and has since then, expanded such use to include cereal granola, waffles, oatmeal and snack mixes.

2. Opposer's use has been valid and continuous since said date of first use and has not been abandoned. Opposer's mark is symbolic of extensive goodwill and consumer recognition built up by Opposer through a substantial amount of time and effort in advertising and promotion.

3. Opposer is the owner of U.S. Registration No. 2,069,075 for the mark "NATURE'S PATH" as applied to breakfast cereals, sliced and unsliced bread, muesli, and tahini; U.S. Registration No. 1,848,671 for the mark "NATURE'S PATH" (& Design) for processed cereals; U.S. Registration No. 2,492,114 for the mark "NATURE'S PATH" (& Design) for breads and breakfast cereals; pending application Serial No. 76/228,087 for the mark "NATURE'S PATH" (& Design) for cereal-based snack mixes, cereal-based ready to eat food bars and cereal granola; and pending application Serial No. 76/385,156 filed March 20, 2001 for the mark Nature's Path, as applied to cereal-based snack mixes, cereal-based ready to eat food bars, and cereal granola.

4. Applicant has filed U. S. Trademark application Serial No. 78/124,742 to register NATURE'S BATCH on the Principal Register for a grain based snack product in International Class 30.

5. Upon information and belief, Opposer's use of NATURE'S PATH in connection with the aforementioned goods began long prior to any use by Applicant of the mark NATURE'S BATCH in commerce.

6. In view of the similarity of the respective marks, goods, channels of trade and intended customers, Applicant's mark so resembles Opposer's mark previously used in

the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake or to deceive.

7. By reason of the foregoing, registration of Applicant's mark will result in irreparable injury to Opposer and to its rights in its mark.


WHEREFORE, Opposer prays that this opposition be sustained and that registration of Applicant's mark be refused.

Enclosed is U.S. PTO Credit Card Payment Form No. 2038 in the amount of \$300.00 to cover the opposition filing fee. The Commissioner is hereby authorized to credit any overpayment or charge any fee deficiency to Deposit Account No. 07-0130.

Date: February 19, 2003

Respectfully submitted,

NATURE'S PATH FOODS INC.



Thomas M. Galgano, Esq.
Galgano & Burke
Attorneys for Opposer
300 Rabro Drive
Hauppauge, NY 11788
(631) 582-6161

TMG/jgg

Enclosure: Notice of Opposition in Duplicate
USPTO Credit Card Payment Form 2038 for \$300.00

F:\G&B\1030\46\NOTOPP.WPD

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: COMMISSIONER OF PATENTS AND TRADEMARKS, Washington, D.C. on February 19, 2003

By: 

Thomas M. Galgano, Esq.

Date: February 19, 2003